

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

ELIZABETH SINES, ET AL.,
Plaintiffs,

v.

JASON KESSLER, ET AL.,
Defendants.

Civil Action No. 3:17-cv-00072

**DEFENDANTS LEAGUE OF THE SOUTH, MICHAEL HILL & MICHAEL TUBBS’
RESPONSE TO PLAINTIFFS’ MOTION FOR ATTORNEY’S FEES AND COSTS**

Defendants League of the South, Michael Hill, and Michael Tubbs, by and through Counsel, object to Plaintiffs’ Motion for Attorney’s Fees and Costs.

Plaintiffs have failed to specify whether they are requesting attorneys’ fees and costs from moving Defendants. Plaintiffs do not specifically argue that Defendants League of the South, Michael Hill, or Michael Tubbs are responsible for attorneys’ fees or costs. Plaintiffs do not cite any authority to support a claim that the League, Hill, or Tubbs would be responsible for attorney’s fees or costs on the Virginia state civil conspiracy claim, which was the only claim against the League, Hill, and Tubbs upon which the Plaintiffs prevailed. Because Plaintiffs have failed to properly and specifically move for attorneys’ fees against moving Defendants, their motion should be denied. To the extent Plaintiffs have properly moved for attorneys’ fees and costs against Defendants League of the South, Michael Hill, and Michael Tubbs, their motion should be denied.

Virginia follows the American Rule "which provides that [g]enerally, absent a specific contractual or statutory provision to the contrary, attorney's fees are not recoverable by a prevailing litigant from the losing litigant." *Reineck v. Lemen*, 292 Va. 710, 792 S.E.2d 269

(2016) (internal quotation marks omitted). There is no statutory or contractual provision that allows for an award of attorney's fees or costs for a Virginia civil conspiracy claim. For that reason, Plaintiffs cannot recover attorneys' fee and costs from moving Defendants because moving Defendants were only found liable on the Virginia civil conspiracy claim. Moving Defendants were only named in Claims I, II, and III.

Plaintiffs make no effort to distinguish work performed toward successful claims and unsuccessful claims. In the years leading up to trial, Plaintiffs' counsels' frequent media appearances, interviews, and public statements focused almost exclusively on the unsuccessful federal claims. During closing arguments at trial, Plaintiffs' counsel made almost no mention of any other claims besides the unsuccessful federal claims. Until now, the Virginia state claims were an afterthought. Plaintiffs' request for millions of dollars of attorneys' fees and costs on a claim that they spent virtually no time litigating is unreasonable.

To the extent that Plaintiffs are requesting attorneys' fees and costs from moving Defendants, their request should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify the above was served on April 13, 2022 on all ECF participants and that parties requiring service by other means were served as follows:

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